EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE ISSUED:	March 4, 2010	REPORT NO.: N/A
ATTENTION:	Natural Resources and Culture Committee Agenda of March 17, 2010	
ORIGINATING DEPT.:	Public Utilities Department	
SUBJECT:	Third Amendment to Agreement with Raftelis Financial Consultants, Inc. related to the Development of the Recycled Water Rate Structuring Model	
COUNCIL DISTRICTS:	All	
STAFF CONTACT:	Rod Greek (760) 809-0681 Chris Ojeda (858) 614-5746	

REQUESTED ACTION:
Authorize the Mayor, or his designee, to execute a third amendment to the agreement with Raftelis Financial Consultants, Inc (RFC) for financial consultant services related to the development of the recycled water rate structuring model for an extension to December 30, 2010 and for an amount not to exceed $50,000 for the completion of the scope of services.

STAFF RECOMMENDATION:
Approve and authorize the execution of a third amendment to the agreement with Raftelis Financial Consultants, Inc (RFC) for financial consultant services related to the development of the recycled water rate structuring model for an extension to December 30, 2010 and for an amount not to exceed $50,000 for the completion of the scope of services.

EXECUTIVE SUMMARY:
In December 2004, the City entered into an agreement with RFC to conduct a Recycled Water Pricing Study for $250,000 to provide a comprehensive analysis of recycled water costs and revenues, provide rate structure recommendations, and document findings in a Recycled Water Pricing Study Report. The agreement also provided for the development of the recycled water rate structuring model and training of City staff to administer the rate model.

In February 2006, the City entered into the First Amendment with RFC in order to extend the term of the Agreement through December 2007. In December 2007, the City entered into the Second Amendment with RFC in order to update project costs, update the original analysis of recycled water demands, provide modifications to the draft recycled water rate structuring model, and provide a draft version of the Recycled Water Pricing Study Report. The Second Amendment increased the Agreement compensation amount by $100,000 to a not-to-exceed amount of $350,000 and extended the term of the Agreement to December 2009.

To date, RFC has provided a financial plan for the recycled water system, analyzed revenue requirements and revenue off-sets, provided a recycled water rate structuring model and a draft Pricing Study Report. However, as the City endeavors to anticipate and address concerns expressed by some of its customers regarding the soundness of any pricing methodology recommended, additional modification to the current recycled water rate structuring model is required. The anticipated modifications will result in a revised Recycled Water Pricing Study Report. This amendment is to extend the term of the Agreement with RFC to allow for completion of the proposed modifications. The amendment would extend the term of the Agreement to December 30, 2010 and authorize additional compensation of an amount not to exceed $50,000 for the completion of the scope of services.

FISCAL CONSIDERATIONS:
The total cost of the amendment to the agreement with RFC will be for an amount not to exceed $50,000 for professional services related to the completion of the identified scope of services.

EQUAL OPPORTUNITY CONTRACTING:
RFC is in compliance with the City's Equal Opportunity Contracting Program Consultant Requirements.

PREVIOUS COUNCIL COMMITTEE ACTION:
The initial Agreement with RFC was presented to the City Council on December 10, 2004. The Second Amendment to the Agreement with RFC was presented to the City Council on January 29, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
None.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):
The key stakeholders are the City of San Diego and the Public Utilities Department customers.

Alex Ruiz
Assistant Public Utilities Director

J. M. Barrett
Director of Public Utilities

Attachments: (1) Professional Financial Consultant Services contract with Raftelis Financial Consultant Inc.

(2) Third Amendment to Agreement between the City of San Diego and Raftelis Financial Consultant Inc.

AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND RAFTELIS FINANCIAL CONSULTING, INC. FOR CONSULTING SERVICES

THIS Agreement is made and entered into between the City of San Diego, a municipal corporation [City], and Raftelis Financial Consulting, Inc. [Consultant] for the Consultant to provide Professional Services to the City on Recycled Water Pricing Structure [Project].

RECITALS

The City wants to retain the services of a professional consulting firm to provide Recycled Water Pricing Structure services [Professional Services].

The Consultant has the expertise, experience and personnel necessary to provide the Professional Services for the Project.

The City and the Consultant [Parties] want to enter into an Agreement [Agreement] whereby the City will retain the Consultant to provide, and the Consultant shall provide, the Professional Services for the Project.

In consideration of the above recitals and the mutual covenants and conditions set forth herein, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby set forth their mutual covenants and understandings as follows:

ARTICLE I - PROFESSIONAL SERVICES

The above-listed recitals are true and correct and are hereby incorporated by reference.

1.1 Scope of Services.

The Consultant shall perform Professional Services as set forth in the written Scope of Services (Scope) [Exhibit A] at the direction of the City, and Time Schedule [Exhibit D].

1.2 Contract Administrator.

The Water Department is the contract administrator for this Agreement. The Consultant shall provide Professional Services under the direction of a designated representative of the Water Department. The City's designated representative will communicate with the Consultant on all matters related to the administration of this Agreement and the Consultant's performance of the Professional Services rendered hereunder. When this Agreement refers to communications to or with the City, those communications will be with the designated representative, unless the designated representative or the Agreement specifies otherwise.

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SAN DIEGO, CALIFORNIA

1.3 City Modification of Scope of Services.

The City may, without invalidating this Agreement, order changes in the Scope of Services by altering, adding to, or deducting from the Professional Services to be performed. All such changes shall be in writing and shall be performed in accordance with the provisions of this Agreement. If any such changes cause an increase or decrease in the Consultant's cost of, or the time required for, the performance of any of the Professional Services, the Consultant shall so notify the City. If appropriate, an equitable adjustment to the Consultant's compensation may be made, provided that any adjustment must be approved by both Parties in writing.

1.4 Written Authorization.

Prior to performing any Professional Services in connection with the Project, the Consultant shall obtain from the City a written authorization to proceed. The Consultant shall advise the City in writing immediately of any anticipated change in the Scope of Services, Compensation Schedule, or Time Schedule, and shall obtain the City's written consent to the change prior to making any changes. In no event shall the City's consent be construed to relieve the Consultant from its duty to render all Professional Services in accordance with applicable laws and accepted industry standards.

1.5 Confidentiality of Services.

All Professional Services performed by the Consultant, including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by the Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to the Consultant, at the time that it was disclosed to the Consultant by the City, (b) subsequently becomes publicly known through no act or omission by the Consultant, or (c) otherwise becomes known to the Consultant other than through disclosure by the City. Except for Subconsultants covered by Section 4.4, neither the documents nor their contents shall be released to any third party without the prior written consent of the City.

1.6 Competitive Bidding.

The Consultant shall ensure that all plans and specifications prepared, required, or recommended under this Agreement allow for competitive bidding. The Consultant shall design such plans or specifications so that procurement of services, labor or materials are not available from only one source, and shall not design plans and specifications around a single or specific product, piece of major equipment or machinery, a specific patented design, or a proprietary process, unless required by principles of sound engineering practice and supported by a written justification that has been approved in writing by the City. The Consultant shall submit this written justification to the City prior to beginning work on such plans or specifications. Whenever the Consultant recommends a specific product or equipment for competitive procurement, such recommendation shall include at least two brand names of products that are capable of meeting the functional requirements applicable to the Project.

1.7 Review of Services.

All Professional Services performed pursuant to this Agreement shall be subject to review and approval by the City at all reasonable times and places during the term of the Agreement. Professional Services include all services performed, including but not limited to

workmanship and documents of any type delivered to the City pursuant to the terms of the Agreement. No review made prior to final acceptance shall relieve Consultant of any responsibility or duty pursuant to the terms of the Agreement.

In the event that any Professional Services do not conform to the requirements of this Agreement or any applicable industry standards, the City may require Consultant to promptly correct or replace the Professional Services in question. The cost of correction or replacement shall be borne by Consultant. If Consultant fails to promptly perform the correction or replacement, the City may terminate the Agreement for default, in accordance with Section 2.7 of this Agreement. City may charge to Consultant all costs, expenses and damages associated with any such correction or replacement.

ARTICLE II - DURATION OF AGREEMENT

2.1 Term of Agreement.

This Agreement shall be effective on the date it is executed by the last party to sign the Agreement, and it shall be effective until October 31, 2005 or until completion of the last task hereunder, whichever occurs first.

2.2 Time of Essence.

Time is of the essence for this Agreement.

2.3 Notification of Delay.

The Consultant shall immediately notify the City in writing of any delay in completion of the Professional Services as set forth in the Scope. The written notice shall include an explanation of the cause for, and a reasonable estimate of the length of the delay. If the delay affects a material part of the Project, the City may exercise its rights under Sections 2.5-2.8 of this Agreement.

2.4 Delay.

If delays in the performance of the Professional Services as set forth in the Scope are caused by unforeseen events beyond the control of both Parties, such delay may entitle the Consultant to a reasonable extension of time, but such delay shall not entitle the Consultant to damages or additional compensation. The following conditions may constitute such a delay: war; changes in law or government regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the Consultant's work; inability to obtain materials, equipment or labor; required additional Professional Services; or other specific reasons agreed to between the City and the Consultant; provided, however, that (a) this provision shall not apply and the Consultant shall not be entitled to an extension of time for a delay caused by the acts or omissions of the Consultant; and, (b) that a delay caused by the inability to obtain materials shall not entitle the Consultant to an extension of time unless the Consultant furnishes the City, in a timely manner, documentary proof, to the City's satisfaction, of the inability to obtain materials.

2.5 City's Right to Suspend for Convenience.

The City may, at its sole option and for its convenience, suspend all or any portion of the Consultant's performance of the Professional Services, for a reasonable period of time not to

exceed six months. In accordance with the provisions of this Agreement, the City will give written notice to the Consultant of such suspension. In the event of such a suspension, in accordance with the provisions of Article III of this Agreement, the City shall pay to the Consultant a sum equivalent to the reasonable value of the Professional Services the Consultant has performed up to the date of suspension. Thereafter, the City may rescind such suspension by giving written notice of rescission to the Consultant. The City may then require the Consultant to resume performance of the Professional Services in compliance with the terms and conditions of this Agreement; provided, however, that the Consultant shall be entitled to an extension of time equal to the length of the suspension, unless otherwise agreed to in writing by the Parties.

2.6 City's Right to Terminate for Convenience.

The City may, at its sole option and for its convenience, terminate all or any portion of the Professional Services agreed to pursuant to this Agreement by giving written notice of such termination to the Consultant. Such notice shall be delivered by certified mail with return receipt for delivery to the City. The termination of the Professional Services shall be effective upon receipt of the notice by the Consultant. After termination of this Agreement, the Consultant shall complete any and all additional Scope necessary for the orderly filing of documents and closing of the Consultant's Professional Services under this Agreement. For services rendered in completing the work, the Consultant shall be entitled to fair and reasonable compensation for the Professional Services performed by the Consultant before the effective date of termination. After filing of documents and completion of performance, the Consultant shall deliver to the City all drawings, plans, calculations, specifications and other documents or records related to both the Project and to the Consultant's Professional Services on the Project. By accepting payment for completion, filing and delivering documents as called for in this paragraph, the Consultant discharges the City of all of the City's payment obligations and liabilities under this Agreement.

2.7 City's Right to Terminate for Default.

If the Consultant fails to perform or adequately perform any obligation required by this Agreement, the Consultant's failure constitutes a Default. If the Consultant fails to satisfactorily cure a Default within ten calendar days of receiving written notice from the City specifying the nature of the Default, the City may immediately cancel and/or terminate this Agreement, and terminate each and every right of the Consultant, and any person claiming any rights by or through the Consultant under this Agreement. The rights and remedies of the City enumerated in this Section 2.7 are cumulative and shall not limit, waive or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement, or hereinafter enacted or established, that may be available to the City against the Consultant.

2.8 City's Right to Terminate for Bankruptcy or Assignment for the Benefit of Creditors.

If the Consultant files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, the City may at its option and without further notice to or demand upon the Consultant, immediately cancel and/or terminate this Agreement, and terminate each and every right of the Consultant, and any person claiming any rights by or through the Consultant under this Agreement. The rights and remedies of the City enumerated in this Section 2.8 are cumulative and shall not limit, waive or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or

deny any right or remedy, at law or in equity, existing as of the date of this Agreement, or hereinafter enacted or established, that may be available to the City against the Consultant.

ARTICLE III - COMPENSATION

3.1 General.

3.1.1 Contract Amount. The City shall compensate the Consultant on an hourly basis, for all Professional Services related to performance under this Agreement, in an amount not to exceed $250,000 (Contract Amount), as set forth in the Compensation Schedule [Exhibit B].

3.1.2 Fees. The Consultant shall be entitled to compensation for Professional Services under this Agreement, whether within the Scope of Services or as Additional Services, based on the Fee Schedule [Exhibit C]. For the duration of this Agreement, the Consultant shall not be entitled to fees which exceed those shown in the Fee Schedule.

3.2 Manner of Payment.

Consultant shall bill all fees and expenses (Costs) incurred in accordance with this Agreement directly to the City on a monthly basis.

3.2.1. Payments. The Consultant shall include with each invoice a description of completed Professional Services as set forth in the Scope. Invoices shall be submitted within thirty (30) days of completion of work represented by the request and within sixty (60) days of incurring Costs to be reimbursed under this Agreement, if any. Invoices to the City must be in accordance with the Fee Schedule and amounts approved by City will be paid within thirty calendar days of receipt.

3.2.2. False Claims. Pursuant to the California False Claims Act (Government Code sections 12650-12655), any Consultant that knowingly submits a false claim to the City for compensation under the terms of this Agreement may be held liable for treble damages and up to a $10,000 civil penalty for each false claim submitted. This section shall also be binding on all Subconsultants.

A Consultant or Subconsultant shall be deemed to have submitted a false claim when the Consultant or Subconsultant: a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; c) conspires to defraud the City by getting a false claim allowed or paid by the City; d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to the City; or e) is a beneficiary of an inadvertent submission of a false claim to the City, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

3.3 Additional Services.

If the City requires additional Professional Services [Additional Services] beyond the Scope of Services, except for Additional Costs as described in Section 3.4 of this Agreement, the Consultant will be paid an additional fee. For Additional Services, if required, a maximum fee of

$50,000 will be paid. The City and the Consultant must agree in writing upon such fee for a specific task based on the Fee Schedule prior to the Consultant beginning the Additional Services.

3.4 Additional Costs.

Additional Costs are those costs that can be reasonably determined to be related to the Consultant's errors or omissions, and may include Consultant, City, or Subconsultant overhead, construction, materials, demolition, and related costs. The Consultant shall not be paid for Professional Services required due to the Consultant's errors or omissions and the Consultant shall be responsible for any Additional Costs associated with such errors or omissions. These Additional Costs may be deducted from monies due, or that become due, the Consultant. Whether or not there are any monies due, or becoming due, Consultant shall reimburse the City for Additional Costs due to the Consultant's errors or omissions.

3.5 Excess Costs.

3.5.1 Notification. The Consultant shall promptly notify the City in writing if at any time the Consultant has reason to believe that Costs incurred in the performance of Professional Services will exceed the following limits;

3.5.1.1 80% of Contract Amount. Costs to be incurred in the next sixty calendar days, when added to all Costs previously incurred, will exceed eighty percent (80%) of the Contract Amount.

3.5.1.2 Total Contract Amount. Cost for performance of the Scope of Services will exceed the Contract Amount.

3.5.2 Estimate of Completion. The Consultant shall include a revised estimate to complete the Scope of Services under this Agreement in the Notification required under Section 3.5.1.

ARTICLE IV - CONSULTANT'S OBLIGATIONS

4.1 Industry Standards.

The Consultant agrees that the Professional Services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent professional recycled water, water and wastewater rates consulting firm using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. Where approval by the City, the City Manager, or other representatives of the City is required, it is understood to be general approval only and does not relieve the Consultant of responsibility for complying with all applicable laws, codes, and good consulting practices.

4.2 Right to Audit.

4.2.1 Access. The City retains the right to review and audit, and the reasonable right of access to Consultant's and any Subconsultant's premises to review and audit the Consultant's compliance with the provisions of this Agreement [City's Right]. The City's Right includes the right to inspect and photocopy same, and to retain copies, outside of the

Consultant's premises, of any and all Project-related records with appropriate safeguards, if such retention is deemed necessary by the City in its sole discretion. This information shall be kept by the City in the strictest confidence allowed by law.

4.2.2 Audit. The City's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the City determines are necessary to discover and verify that the Consultant is in compliance with all requirements under this Agreement.

4.2.2.1 Cost Audit. If there is a claim for additional compensation or for Additional Services, the City's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the City determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.

4.2.2.1.1 Accounting Records. The Consultant shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. The Consultant shall make available to the City for review and audit, all Project related accounting records and documents, and any other financial data. Upon City's request, the Consultant shall submit exact duplicates of originals of all requested records to the City.

4.2.3 City's Right Binding on Subconsultants. The Consultant shall include the City's Right as described in Section 4.2, in any and all of their subcontracts, and shall ensure that these sections are binding upon all Subconsultants.

4.2.4 Compliance Required before Mediation or Litigation. A condition precedent to proceeding with mandatory mediation and further litigation provided for in Article VII is the Consultant's full compliance with the provisions of this Section 4.2 within sixty days of the date on which the City mailed a written request to review and audit compliance.

4.3 Insurance.

The Consultant shall not begin Professional Services under this Agreement until it has: a) obtained insurance certificates reflecting evidence of all insurance required in Section 4.3.1, however, the City reserves the right to request, and Consultant shall submit, copies of any policy upon reasonable request by the City; b) obtained City approval of each company or companies as required by Article IV, Section 4.3.2; c) confirmed that all policies contain the specific provision required in Article IV, Section 4.3.4.

Further, the Consultant shall not modify any policy or endorsement thereto which increases the City's exposure to loss for the duration of this Agreement.

4.3.1. Types of Insurance. At all times during the term of this Agreement, the Consultant shall maintain insurance coverages as follows:

4.3.1.1. Commercial General Liability. For all of the Consultant's operations, including contractual, broad form property damage, completed operations, and independent Consultant's liability, the Consultant shall keep in full force and effect, during any and all work on this Project, all applicable insurance to cover personal injury, bodily injury and

property damage, providing coverage to a combined single limit of $1 million per occurrence, subject to an annual aggregate of $1 million for general liability, completed operations and personal injury other than bodily injury. Contractual liability shall include coverage of tort liability to another party to pay for bodily injury or property damage to a third person or organization. Contractual liability limitation endorsement is not acceptable. The per occurrence limits required may be achieved by combining layers of excess or umbrella insurance with underlying Commercial General Liability Coverage, provided that the sum of the limits of all policies meet or exceed the required limits.

4.3.1.2. Commercial Automobile Liability. For all of the Consultant's automobiles including owned, hired and non-owned automobiles, the Consultant shall keep in full force and effect, automobile insurance for bodily injury and property damage providing coverage to a combined single limit of $1 million per occurrence. Insurance certificate shall reflect coverage for any automobile [any auto]. The City shall be named as an additional insured, but only for liability arising out of Professional Services performed under this Agreement.

4.3.1.3. Worker's Compensation. For all of the Consultant's employees who are subject to this Agreement and to the extent required by the State of California, the Consultant shall keep in full force and effect, a workers compensation policy. That policy shall provide a minimum of $1,000,000 of employers liability coverage, and Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

4.3.2. Rating Requirements. All insurance required by express provision of this Agreement shall be carried only by responsible insurance companies that have been given at least an "A" &"V" rating by AM BEST, that are licensed to do business in the State of California, and that have been approved by the City.

4.3.3. Deductibles. All deductibles on any policy shall be the responsibility of the Consultant.

4.3.4. Specific Provisions Required. Each policy required under Article IV, Sections 4.3.1.1. through 4.3.1.4 shall expressly provide, and an endorsement shall be submitted to the City, that:

4.3.4.1. Except as to Architects and/or Engineers professional liability insurance and Workers Compensation, The City of San Diego and its respective elected officials, officers, employees, agents, and representatives shall be named as additional insureds. The City's Additional Insured status must be reflected on additional insured endorsement form CG 20 10, or equivalent, which shall be submitted to the City.

4.3.4.2. The policies are primary and non-contributory to any insurance that may be carried by the City, as reflected in an endorsement which shall be submitted to the City.

4.3.4.3. The policies cannot be canceled, non renewed or materially changed except after thirty calendar days prior written notice by the Consultant to the City by certified mail, as reflected in an endorsement which shall be submitted to the City except for non-payment of premium, in which case ten days notice will be provided.

4.3.4.4. Before performing any Professional Services, the Consultant shall provide the City with all Certificates of Insurance accompanied with all endorsements.

4.3.5 Additional Consultant Insurance. The Consultant may obtain additional insurance not required by this Agreement.

4.3.6 Subconsultant Coverage Validation. Consultant shall be responsible for confirming that Subconsultants keep in full force and effect for the duration of this Agreement all insurance policies required in Section 4.4.1.1.

4.4 Subconsultants.

The Consultant's hiring of or retaining any third parties [Subconsultants] to perform services related to the Project [Subconsultant Services] is subject to prior approval by the City. Consultant shall list on the Subconsultants List [Exhibit E (Attachment CC)] all Subconsultants known to the Consultant at the time this Agreement is executed. If at any time after this Agreement is entered into, the Consultant identifies a need for additional Subconsultant Services, the Consultant shall give written notice to the City of the need, at least forty-five days before entering into a contract for such Subconsultant Services. The Consultant's notice shall include a justification, a description of the scope of work, and an estimate of all costs for the Subconsultant Services. The Consultant may request that the City reduce the forty-five day notice period. The City agrees to consider such requests in good faith.

4.4.1 Subconsultant All contracts entered into between the Consultant and a Subconsultant shall contain the information as described in Sections 4.6, 4.7, and 4.10.3, and shall provide as follows:

4.4.1.1 Each Subconsultant shall obtain insurance policies which shall be kept in full force and effect during any and all work on this Project and for the duration of this Agreement. Each Subconsultant shall obtain, and Consultant shall require the Subconsultant to obtain, all policies described in Section 4.3.1. with the exception of the coverage specified in Section 4.3.1.3.

4.4.1.1.1 Subconsultants shall have existing Architects and/or Engineers professional liability insurance and will be allowed to retain those current coverage limits and not be required to increase those limits to higher levels due to their third party participation in this Agreement.

4.4.1.2 The Consultant is obligated to pay the Subconsultant, for Consultant- and City-approved invoice amounts, out of amounts paid by the City to the Consultant, not later than fourteen working days from the Consultant's receipt of payment from the City. Nothing in this paragraph shall be construed to impair the right of the Consultant and any Subconsultant to negotiate fair and reasonable pricing and payment provisions among themselves.

4.4.1.3 In the case of a deficiency in the performance of Subconsultant Services, the Consultant shall notify the City in writing of any withholding of payment to the Subconsultant, specifying: (a) the amount withheld; (b) the specific cause under the terms of the subcontract for withholding payment; (c) the connection between the cause for withholding payment and the amount withheld; and (d) the remedial action the Subconsultant must take in order to receive the amount withheld. Once the Subconsultant corrects the deficiency, the Consultant shall pay the Subconsultant within fourteen working days of Consultant's receipt of the next payment from the City.

4.4.1.4. In any dispute between the Consultant and Subconsultant, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Consultant agrees to defend and indemnify the City as described in Article VI of this Agreement in any dispute between the Consultant and Subconsultant should the City be made a party to any judicial or administrative proceeding to resolve the dispute in violation of this provision.

4.5 Contract Activity Report.

The Consultant shall submit statistical information to the City as requested in the City's Contract Activity Report [Exhibit E (Attachment BB)]. The statistical information shall include the amount of subcontracting provided by firms during the period covered by the Contract Activity Report. With the Contract Activity Report, the Consultant shall provide an invoice from each Subconsultant listed in the Report. The Consultant agrees to issue payment to each firm listed in the Report within fourteen working days of receiving payment from the City for Subconsultant Services as described in Sections 4.4.1.2 and 4.4.1.3 of this Agreement.

4.6 Non-Discrimination Requirements.

4.6.1 Compliance with the City's Equal Opportunity Contracting Program. The Consultant and each of its Subconsultants shall comply with the City's Equal Opportunity Contracting Program Consultant Requirements which is attached hereto as Exhibit E and incorporated herein by this reference.

4.6.2 Non-Discrimination Ordinance. Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Subconsultants, vendors or suppliers. Consultant shall provide equal opportunity for Subconsultants to participate in subconsulting opportunities. Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions. This language shall be in contracts between the Consultant and any Subconsultants, vendors and suppliers.

4.6.3 Compliance Investigations. Upon the City's request, Consultant agrees to provide to the City, within sixty calendar days, a truthful and complete list of the names of all Subconsultants, vendors, and suppliers that Consultant has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Consultant for each subcontract or supply contract. Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's *Nondiscrimination in Contracting Ordinance* (Municipal Code Sections 22.3501-22.3517). Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Consultant up to and including contract termination, debarment, and other sanctions for violation of the provisions of the *Nondiscrimination in Contracting Ordinance*. Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the *Nondiscrimination Ordinance* apply only to violations of said *Nondiscrimination Ordinance*.

4.7 Drug-Free Workplace.

The Consultant agrees to comply with the City's Drug Free Workplace requirements set forth in Council Policy 100-17, adopted by Council Resolution No. R-277952 and incorporated into this Agreement by this reference. Consultant shall certify to the City that it will provide a

drug-free workplace by submitting a Consultant Certification for a Drug-Free Workplace form [Exhibit F].

4.7.1. Consultant's Notice to Employees. The Consultant shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the work place, and specifying the actions that will be taken against employees for violations of the prohibition.

4.7.2. Drug-Free Awareness Program. The Consultant shall establish a drug-free awareness program to inform employees about all of the following:

4.7.2.1. The dangers of drug abuse in the work place.

4.7.2.2. The policy of maintaining a drug-free work place.

4.7.2.3. Available drug counseling, rehabilitation, and employee assistance programs.

4.7.2.4. The penalties that may be imposed upon employees for drug abuse violations.

4.7.3. Posting the Statement. In addition to Section 4.7.1 above, the Consultant shall post the drug-free policy in a prominent place.

4.7.4. Subconsultant's Agreements. The Consultant further certifies that each contract for Subconsultant services for this Project shall contain language that binds the Subconsultant to comply with the provisions of Article IV, Section 4.7 of this Agreement, as required by Sections 2.A.(1) through (3) of Council Policy 100-17. Consultants and Subconsultants shall be individually responsible for their own drug-free work place program.

4.8 Product Endorsement.

The Consultant acknowledges and agrees to comply with the provisions of the City's Administrative Regulation 95-65, concerning product endorsement. Any advertisement identifying or referring to the City as the user of a product or service requires the prior written approval of the City.

4.9 Conflict of Interest.

The Consultant is subject to all federal, state, and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code sections 1090, et. seq. and 81000, et. seq., and the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code at sections 27.3501 to 27.3595.

4.9.1. If, in performing the Professional Services set forth in this Agreement, the Consultant makes, or participates in, a "governmental decision" as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Consultant's relevant financial interests.

4.9.1.1. Statements of economic interests shall be made on Fair Political Practices Commission Form 700 and filed with the City Clerk. The Consultant shall file a Form 700 (Assuming Office Statement) within thirty calendar days of the City's determination that the Consultant is subject to a conflict of interest code. The Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Consultant was subject to a conflict of interest code.

4.9.1.2. If the City requires the Consultant to file a statement of economic interests as a result of the Professional Services performed, the Consultant shall be considered a "City Official" subject to the provisions of the City of San Diego Ethics Ordinance, including the prohibition against lobbying the City for one year following the termination of this Agreement.

4.9.2. The Consultant shall establish and make known to its employees, agents, and subconsultants, appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships.

4.9.3. The Consultant and its Subconsultants having subcontracts amounting to 1% or more of the value of the Contract Amount agreed to under this Agreement are precluded from participating in design services on behalf of the contractor, construction management, and any other construction services related in any way to this Project without the prior written consent of the City.

4.9.4. The Consultant's personnel employed on the Project shall not accept gratuities or any other favors from any Subconsultants or potential Subconsultants. The Consultant shall not recommend or specify any product, supplier, or contractor with whom the Consultant has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

4.9.5. If the Consultant violates any conflict of interest law or any of the provisions in Section 4.10, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects the Consultant to liability to the City for attorneys fees and all damages sustained as a result of the violation.

4.10 Mandatory Assistance.

If a third party dispute or litigation, or both, arises out of, or relates in any way to the Professional Services provided under this Agreement, upon the City's request, the Consultant, its agents, officers, and employees agree to assist in resolving the dispute or litigation. Consultant's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

4.11 Compensation for Mandatory Assistance.

The City will reimburse, as described in Article III of this Agreement, the Consultant for any fees and expenses incurred for required Mandatory Assistance as Additional Services defined in Section 3.3. The City in its sole discretion, shall determine whether these fees, expenses, and Professional Services rendered under Section 4.11, were necessary due to the Consultant's or its agents', officers', and employees' conduct or failure to act. If the City

determines that such fees, expenses, or Professional Services were the result of the Consultant's or agents', officers', and employees' conduct, in part or in whole, the City is entitled to be reimbursed for any payments made for these fees, expenses, or Professional Services. Reimbursement may be through any legal means necessary, including City's withholding of payment.

4.12 Attorney Fees related to Mandatory Assistance.

In providing the City with dispute or litigation assistance, the Consultant or its agents, officers, and employees may incur expenses and/or costs. The Consultant agrees that any attorney fees it may incur as a result of assistance provided under Section 4.11 are not reimbursable. The Parties agree this provision does not in any way affect their rights to seek attorney fees under Article VIII, Section 8.8 of this Agreement.

4.13 Year 2000 Compliance:

Consultant warrants that the Professional Services on this Project and each product delivered, incorporated or designed for use under this Agreement that contains or utilizes any software, hardware, firmware or any device which requires or is designed to do any processing, analysis, calculating or tracking of date/time data or information shall be able to accurately process, track, or create such date/time data (including, but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000, and leap year calculations to the extent necessary for the Project, and each product to function correctly and accurately from, into, and between all dates and times, including but not limited to, from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and later, for the life of the Project.

ARTICLE V - CITY'S OBLIGATIONS

5.1 Ownership of Documents.

Once the Consultant has received any compensation for the Professional Services performed, all documents, including but not limited to, original plans, studies, sketches, drawings, computer printouts and disk files, and specifications prepared in connection with or related to the Scope of Services or Professional Services, shall be the property of the City. The City's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. The City's ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment. This Section shall apply whether the Consultant's Professional Services are terminated: (a) by the completion of the Project, or (b) in accordance with other provisions of this Agreement. Notwithstanding any other provision of this paragraph or Agreement, the Consultant shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

Consultant shall not be responsible for damage caused by subsequent changes to or uses of the plans or specifications, where the subsequent changes or uses are not authorized or approved by Consultant, provided that the service rendered by Consultant was not a proximate cause of the damage.

5.2 Additional Consultants or Contractors.

The City reserves the right to employ, at its own expense, such additional consultants or contractors as the City deems necessary to perform work or to provide Professional Services on the Project.

5.3 Employment of City Staff.

This Agreement may be unilaterally and immediately terminated by the City, at its sole discretion, if the Consultant employs an individual who, within the last twelve months immediately preceding such employment did, in the individual's capacity as an officer or employee of the City, participate in, negotiate with, or otherwise have an influence on the recommendation made to the City Council in connection with the selection of the Consultant.

ARTICLE VI - INDEMNIFICATION

6.1 Indemnification and Hold Harmless Agreement.

With respect to any liability, including but not limited to claims asserted or costs, losses, attorney fees, or payments for injury to any person or property caused or claimed to be caused by the acts or omissions of the Consultant, or Consultant's employees, agents and officers, arising out of any services performed involving this Agreement, except liability for Professional Services covered under Section 6.2, the Consultant agrees to defend, indemnify, protect, and hold harmless the City, its employees, agents and officers, from and against all liability. Also covered is liability arising from, connected with, caused by, or claimed to be caused by the active or passive negligent acts or omissions of the City, its employees, agents, and officers, which may be in combination with the active or passive negligent acts or omissions of the Consultant, its employees, agents, or officers, or any third party. The Consultant's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or sole willful misconduct of the City, its employees, agents, and officers. This section in no way alters, affects or modifies the Consultant's obligations and duties under Section 4.3.4.1 herein.

6.2 Indemnification for Professional Services.

As to the Consultant's work under this Agreement and any Professional Services related thereto, the Consultant agrees to defend, indemnify, protect and hold harmless the City, its agents, officers and employees from and against any and all claims asserted, or liability established for any damages, arising from the active or passive negligent acts or omissions of the Consultant. The City may, of its own election, conduct its defense or participate in the defense of any claim related in any way to this Agreement; provided however, that the Consultant's duty to indemnify and hold harmless shall not include any claims or liability arising from the established negligence or willful misconduct of the City, its agents, officers or employees.

6.3 Duty to Defend.

The Consultant further agrees that the indemnification agreement in Section 6.1, and 6.2, and the duty to defend the City, require the Consultant to pay any costs the City incurs that are associated with enforcing these indemnification provisions, and defending any claims arising from this Agreement.

ARTICLE VII - ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

7.1 Mandatory Non-binding Mediation

If a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, the Parties agree to first endeavor to settle the dispute in an amicable manner, using mandatory mediation under the Construction Industry Mediation Rules of the American Arbitration Association or any other neutral organization agreed upon before having recourse in a court of law.

7.2 Mandatory Mediation Costs

The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All other expenses of the mediation, including required traveling and expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the Parties, unless they agree otherwise.

7.3 Selection of Mediator

A single mediator that is acceptable to both Parties shall be used to mediate the dispute. The mediator will be knowledgeable in construction aspects and may be selected from lists furnished by the American Arbitration Association (AAA) or any other agreed upon mediator. To initiate mediation, the initiating Party shall serve a Request for Mediation on the opposing Party. If the mediator is selected from a list provided by AAA, the initiating party shall concurrently file with AAA a "Request for Mediation" along with the appropriate fees; a list of three requested mediators marked in preference order, and a preference for available dates.

7.3.1. If AAA is selected to coordinate the mediation (Administrator), within ten (10) working days from the receipt of the initiating Party's Request for Mediation, the opposing Party shall file the following: a list of preferred Mediators listed in preference order, after striking any Mediators to which they have any factual objection, and a preference for available dates. If the opposing party strikes all of initiating Party's preferred Mediators, opposing Party shall submit a list of three preferred Mediators listed in preference order to initiating Party and Administrator. Initiating Party shall file a list of preferred Mediators listed in preference order, after striking any Mediator to which they have any factual objection. This process shall continue until both sides have agreed upon a Mediator.

7.3.2. The Administrator will appoint or the Parties shall agree upon the highest, mutually preferred, Mediator from the individual Parties' lists who is available to serve within the designated time frames.

7.3.3. If the Parties agree not to use AAA, then a mutually agreed upon mediator, date and place for the mediation shall be agreed upon.

7.4 Conduct of Mediation Sessions

Mediation hearings will be conducted in an informal manner and discovery will not be allowed. All discussions, statements, or admissions will be confidential to the Party's legal position. The Parties may agree to exchange any information they deem necessary.

7.4.1. Both Parties must have an authorized representative attend the mediation. Each representative must have the authority to recommend entering into a settlement. Either Party may have attorney(s) or expert(s) present. Upon reasonable demand, either Party may request and receive a list of witnesses and notification whether attorney(s) will be present.

7.4.2. Any agreements resulting from mediation shall be documented, in writing. All mediation results and documentation, by themselves, shall be "non-binding" and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing, by both Parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

ARTICLE VIII - MISCELLANEOUS

8.1 Notices.

In all cases where written notice is required under this Agreement, service shall be deemed sufficient if the notice is deposited in the United States mail, postage paid. Proper notice shall be effective on the date it is mailed, unless provided otherwise in this Agreement. For the purpose of this Agreement, unless otherwise agreed in writing, notice to the City shall be addressed to:

Marsi A. Steirer
Project Director
City of San Diego Water Department
600 B Street, Suite 700
San Diego, CA 92101

and notice to the Consultant shall be addressed to:

Sudhir Pardiwala
Project Manager
201 South Lake Boulevard, Suite 803
Pasadena, California 91101

8.2 Headings.

All article headings are for convenience only and shall not affect the interpretation of this Agreement.

8.3 Non-Assignment.

The Consultant shall not assign the obligations under this Agreement, whether by express assignment or by sale of the company, nor any monies due or to become due, without the City's prior written approval. Any assignment in violation of this paragraph shall constitute a Default and is grounds for immediate termination of this Agreement, at the sole discretion of the City. In no event shall any putative assignment create a contractual relationship between the City and any putative assignee.

8.4 Independent Contractors.

The Consultant and any Subconsultants employed by the Consultant shall be independent contractors and not agents of the City. Any provisions of this Agreement that may appear to give

the City any right to direct the Consultant concerning the details of performing the Professional Services, or to exercise any control over such performance, shall mean only that the Consultant shall follow the direction of the City concerning the end results of the performance.

8.5 Consultant Principal for Professional Services.

It is understood that this Agreement is for unique Professional Services. Retention of the Consultant's Professional Services is based on the particular professional expertise of the individuals rendering the services set forth in the Scope of Services. Accordingly, portions of the described service may not be delegated to other members of the team or Subconsultants without prior written consent by the City. It is mutually agreed that Sudhir Pardiwala (Principal) is the principal person responsible for delivery of all Professional Services and may not be removed from the Project without the City's prior written approval. In the event the Principal named above becomes unavailable for any reason, the City must be consulted as to any replacement. Further, the City reserves the right, after consultation with the Consultant, to require removal of Consultant's employees or agents.

8.6 Covenants and Conditions.

All provisions of this Agreement expressed as either covenants or conditions on the part of the City or the Consultant, shall be deemed to be both covenants and conditions.

8.7 Compliance with Controlling Law.

The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement. In addition, the Consultant shall comply immediately with all directives issued by the City or its authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

8.8 Jurisdiction, Venue, and Attorney's Fees.

The venue for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California. The prevailing Party in any such suit or proceeding shall be entitled to a reasonable award of attorney's fees in addition to any other award made in such suit or proceeding.

8.9 Successors in Interest.

This Agreement and all rights and obligations created by this Agreement shall be in force and effect whether or not any Parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any Party's successor in interest.

8.10 Integration.

This Agreement and the exhibits and references incorporated into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, or modification of the terms or conditions of this Agreement, and no verbal understanding of the parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties or an amendment to this Agreement agreed to by both Parties. All prior negotiations and agreements are merged into this Agreement.

8.11 Counterparts.

This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all parties had executed the same page.

8.12 No Waiver.

No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect to any existing or subsequent breach.

8.13 Severability.

The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

8.14 Municipal Powers.

Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.

8.15 Drafting Ambiguities.

The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

8.16 Signing Authority.

The representative for each Party signing on behalf of a corporation, partnership, joint venture or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

(remainder of page intentionally left blank)

IN WITNESS WHEREOF, this Agreement is executed by The City of San Diego, acting by and through its Water Department Director, pursuant to the City Manager's delegation of authority and San Diego Municipal Code section 22.3223 authorizing such execution, and by the Consultant.

Dated this 9th day of December, 2004.

THE CITY OF SAN DIEGO

By _____
Frank Belock, Jr.
Water Department Director

I HEREBY CERTIFY I can legally bind Raftelis Financial Consultants, Inc. and that I have read all of this Agreement, this 28th day of October, 2004.

By _____
Sudhir Pardiwala
Vice President

I HEREBY APPROVE the form and legality of the foregoing Agreement this 10th day of December, 2004.

CASEY GWINN, City Attorney

By _____
Lori W. Girard
Deputy City Attorney

EXHIBITS

Exhibit A – Scope of Services

Exhibit B – Compensation Schedule

Exhibit C – Fee Schedule

Exhibit D – Time Schedule

Exhibit E – City's Equal Opportunity Contracting Program Consultant Requirements

(Attachment AA) Work Force Report

(Attachment BB) Subconsultants List

(Attachment CC) Contract Activity Report

Exhibit F – Drug Free Workplace Policy and Consultant Certification

Recycled Water Pricing Structure

EXHIBIT A
SCOPE OF SERVICES

Background

The existing rate case spreadsheet was completed in 2001 and has been continuously updated by Water Department staff. It consists of 40 linked worksheets and financial information on three Water Reclamation Plants (one of which is no longer operative), 16 ongoing or completed capital projects, a recycled water incentive program provided by the City for the retrofit customers, and incentive programs provided by the Southern California Metropolitan Water District (MWD) and San Diego County Water Authority (CWA). The spreadsheet stores historical information from the year 2001, and projects sales, expenses, and revenues out to 2021.

Task 1 – Project Initiation and Administration

Consultant will provide services to assist in the successful administration of the project from conception through completion. A project initiation meeting with Water Department (Department) representatives and the Raftelis Financial Consultants, Inc. (RFC) project team shall be conducted to confirm and/or finalize study goals and objectives, project scope, roles and responsibilities, project schedules, and to establish approval procedures and other administrative processes. RFC personnel shall conduct interviews with Department representatives to formulate a better understanding of issues related to recycled water system, and its current and future customer base. RFC shall also work to gain insight into the Department's rate setting and pricing objectives for preliminary discussions of options to adjust the existing pricing structure.

Prior to the project initiation meeting, RFC shall submit: 1) a detailed data request list documenting the necessary information required to successfully complete the study, and 2) a list of questions for Department representatives that will serve as a basis for discussions during staff interviews. To be as efficient and effective as possible, Department staff will plan to forward data to RFC prior to the project initiation meeting. A thorough review of data prior to interviews will facilitate more specific and efficient discussions with Department staff about various facets of the recycled water utility.

Deliverables for this task shall include:
An outline summarizing the overall approach to the recycled water pricing strategy including tasks and estimated cost, milestones, and deliverables.
Data request list and a list of sample interview questions for staff.

Task 2 – Pricing Structure Conceptual Design Workshop (option item)

RFC personnel shall be available to lead an educational training workshop to reinforce general recycled water pricing principles and objectives if requested by the Department. This workshop will provide an effective forum to educate Department staff, City leadership, and interested stakeholders to utility pricing procedures and guidelines. Also, it provides an opportunity to reestablish and prioritize specific pricing goals and objectives in a more formal process that will guide rate structure design throughout the analysis.

Deliverable – the following alternative design concepts shall be reviewed if this option item is executed:

- Uniform pricing;
- Seasonal rates; and,
- Class based rates.

Note: The selection of the appropriate alternatives will depend on the City's pricing objectives, ease of implementation and understanding, and the availability of appropriate billing and customer usage data.

Task 3 – Develop Revenue Requirements

The purpose of this task is to determine the revenue requirements for the recycled water system. This analysis shall include direct operating and maintenance costs, indirect costs, and capital costs. Typically, recycled water system revenue requirements also include revenue offsets to quantify the avoided or delayed costs of developing new potable water sources, shared administrative costs with the potable water system and cost sharing with the wastewater system based on appropriate considerations of permit and contractual requirements. RFC will be provided by Department staff, if possible both historical and current budget and operating information in electronic format for ease of use and incorporation into the Recycled Water Pricing Model ("Pricing Model"). The Department will also provide an analysis of billable units for recycled water by month. Using this data, and expected growth in use, RFC shall develop a full recovery financial forecast which identifies the impacts associated with capital planning and funding decisions. Grants, low interest loans, and MWD and CWA rebates will be considered in the analysis.

RFC shall examine revenue needs based on several criteria such as: retrofitting incentives for connecting existing customers to recycled water systems, financial self-sufficiency; current versus future customer impacts; capital investment needs, and revenue funded versus debt financed capital. RFC shall develop a module in the Pricing Model to forecast annual revenue requirements and revenues over a twenty-year period. These revenue requirements shall be offset by non-user charge revenues and avoided/delayed costs attributed to potable water rates, as appropriate, to produce net revenue requirements to be recovered by user rates and charges.

Deliverables for this task shall be a comprehensive twenty-year financial plan for the recycled water system and the revenue requirements/financial plan module of the Pricing Model.

Task 4 – Allocate Costs of Service

At this point, it will be possible to allocate the costs identified in Task 3 so that appropriate rates can be calculated. RFC shall anticipate allocation of costs between those appropriately recovered through a base charge and those recovered through a volume charge. RFC's analysis may be expanded to include a demand charge, based on a customer's connected capacity. The cost of service analysis shall focus on identifying appropriate service functions, allocating the cost of service (revenue requirements) to the service functions, determining how those services

are used by each customer class, and developing the cost allocation components of the Rate Model. The customer classes will likely include irrigation, commercial, and major industrial users. Cost allocations among these customer classes shall be based on the Base-Extra Capacity approach which focuses on the different usage patterns, or peaking factors, demonstrated by each customer class. Peaking factors may be based on customer specific or more generic, industry-wide peaking data. RFC shall analyze historical usage information for each customer class, including an assessment of alternative customer classification that may provide a more effective approach to capture differences in usage levels and peaking factors among the customer classes. As part of the cost of service analysis, RFC shall consider the pressure zones (booster rate class) as applicable.

RFC shall develop a cost allocation worksheet within the Pricing Model to allocate the recycled water costs. The Pricing Model shall also include a detailed projection of customers and demand (billable flows) in each customer class, or within each rate block. This information shall be based on expected growth in population and customers in the various service areas, as provided by Department staff or documented in master planning studies. Assumptions related to customer growth and increases in demand shall be tested to evaluate the impact of potential reductions in demand.

Deliverables for this task shall include the cost allocation modules of the Pricing Model.

Task 5 –Design User Rates and Charges

After allocating costs (revenue requirements) to the specific customer classes or usage blocks, it will be possible to determine rates and charges. RFC shall identify alternative rate structures and discuss the aspects of each alternative with Department staff. Based on the discussions and the objectives prioritized by stakeholders, RFC shall calculate rates for the test year. The rates shall be developed in accordance with the established pricing objectives and shall include fixed and volumetric rates.

RFC shall meet with Department staff to discuss the preliminary rates and charges and potential customer impacts. RFC shall develop a series of schedules and graphics in the Pricing Model that show projected cost impacts on different types of customers and different levels of usage. These schedules will provide the Department with a clear indication of the customer impacts resulting from changes in the rate structure or increases in the level of rates to support additional costs. This aspect of the Pricing Model will provide an invaluable tool for evaluating how rate changes impact different customer types.

Deliverables for this task shall be the updated recycled water pricing structure and a model for financial planning and updating user rates and charges.

Task 6 – Finalize Pricing Model

A principal deliverable of the study shall be the Recycled Water Pricing Model ("Pricing Model") developed in Microsoft Excel that shall provide:

- Development of revenue requirements;

- Analysis of revenue offsets from the potable water system based on the avoided or delayed cost of securing additional potable water sources;
- Analysis of revenue offsets from the sewer system based on avoided or delayed cost of upgrading Point Loma Wastewater Treatment Plant (PL) to secondary level due to decreased flow or TDS concentration;
- Incorporate an incentive program to retrofit existing customers to recycled water system;
- Projection over a twenty-year forecast horizon of revenue requirements;
- Calculation of recommended rates and charges during the forecasted period;
- Calculation of customer impacts for a variety of customers in different classes and at different usage levels;
- Graphics linked to PowerPoint for ease of understanding and presentations;
- User-friendly buttons and icons to perform user functions;
- Linked files so that changes and updates are automatically propagated in all files; and,
- Customized Help Manual that is accessed via a Windows icon.

The Pricing Model will become an integral component of the Department's annual financial planning and rate evaluation process. It shall be tailored to meet the Department's specific needs and allow for easy use and update by staff. In order to facilitate the update process and enhance its value as a financial planning tool, the Pricing Model shall be designed to incorporate historical data archiving, graphical navigation tools, centralized data inputs, printing assistance, and comprehensive documentation. These aspects of the Pricing Model will be beneficial to Department staff if it chooses to conduct future pricing updates internally, or as a planning tool to evaluate changing information.

Deliverables of this task shall include a model reference manual as well as comprehensive training for at least two Department designated personnel in the use and update of the Pricing Model.

Task 7 – Document and Present Findings and Recommendations

The purpose of this task shall be to document and communicate the study results, assumptions, rationales, and guidelines to Department staff and stakeholders. RFC shall first prepare a preliminary draft report identifying issues, the cost allocation methodology, the results of the cost of service analysis and proposed changes to the pricing structures resulting from this study. RFC shall prepare the final report after receipt of comments from the Department staff have been addressed. Finally, RFC shall present the findings and recommendations to Department staff and stakeholders including PUAC members and City Council as scheduled by the Department.

Task 8 – Meetings with Staff, PUAC and Council

RFC personnel shall attend meetings regularly with Department staff to ensure all concerned are aware of the status of the study and to help make sure there are no unexpected results. RFC shall prepare issue papers identifying alternative rate structures, results of the analysis and make presentations to staff and PUAC members as well as City Council.

EXHIBIT B

COMPENSATION SCHEDULE

I. Professional Services Fee.

A. City and Consultant agree that the Professional Services Fee to be paid to Consultant shall not exceed the Contract Amount shown in the schedule below.

II. Compensation Schedule.

A. The Contract Amount for this Agreement shall be billed on a Time and Material basis Not-To-Exceed $250,000 as listed below.

Task Description	Amount
Project Initiation and Administration – Outline / Summary of Overall Approach (Task 1)	$18,000
Pricing Structure and Associated Documentation (Task 3, 4, 5, 6)	$66,000
Training on Use of Pricing Structure – training for a minimum of two (2) personnel (Task 6)	$14,000
Meetings with City Staff – two (2) meetings per month (Task 7, 8)	$38,000
Assistance in Presenting to Oversight Groups – six (6) meetings (Task 7, 8)	$21,000
Conceptual Design Workshop – option item (Task 2)	$9,000
Added Value – option item	$13,000
Other Direct Costs (receipts required for reimbursement) / Associate Project Costs (based on staff hours)	$10,000
Travel (receipts required for reimbursement)	$11,000
Additional Services	$50,000
Total Not-To-Exceed	**$250,000**

III. Labor Hours.

A. Labor classification estimated labor hours shown in schedule below.

Classification	Hours	Rate
Project Reviewer	70	$200
Project Director	80	$200
Project Manager	312	$185

Classification	Hours	Rate
Project Staff	512	$150
Administrative	52	$60

EXHIBIT C

FEE SCHEDULE

I. Labor Rate.

A. Direct labor billing rate shall be Consultant's burdened rate for job classifications as listed on attached Schedule C1. Direct labor billing rate cap is $ 200.00 for Project Reviewer and Project Director.

B. Classifications may be amended in writing based on changes in technology or scope of services. Consultant must have received City's approval in writing prior to billing any classification changes or additions.

II. Other Direct Costs (excluding Subconsultants).

A. Other Direct Costs (ODC) are Consultant's actual costs for the items listed in attached Schedule C2. Consultant must have received City's approval in writing prior to billing any additions to Schedule C2.

B. Consultant's Markup on Other Direct Costs is 0 %.

C. Receipts are required for reimbursement of ODCs that are not covered by Associated Project Cost.

III. Subconsultants.

A. Subconsultant Costs are actual costs paid to Subconsultants by Consultant. Any subsidiary company to the Consultant, performing services related to the Project, shall not qualify for treatment as third party [Subconsultant] to this Agreement.

B. Consultant's Markup on Subconsultant Cost is 0 %.

C. Receipts are required for reimbursement of Subconsultant Cost.

IV. Associated Project Charge (APC).

A. Technology charges as well as costs related to printing, mailing, telephone and other similar services are to be billed on the basis of $8.50 per staff hour.

B. Consultant's Markup on APC is 0 %.

V. Travel Expense.

A. Travel Expenses are Consultant's actual costs for the items listed in attached Schedule C3. Consultant must have received City's approval in writing prior to billing any additions to Schedule C3.

B. Consultant's Markup on Travel Expense is 0 %.

C. Receipts are required for reimbursement of Travel Expense.

EXHIBIT C

SCHEDULES

C 1 - Schedule of Labor Rates

Classification	Rate
Project Reviewer	$200.00
Project Director	$200.00
Project Manager	$185.00

Classification	Rate
Project Staff Senior Consultant	$150.00
Administrative	$60.00
Consultant	$130.00

C 2 - Schedule of Other Direct Costs

Expense Listing
Associated Project Cost - $8.50 per staff hour.

Expense Listing

C 3 – Travel Expenses

Expense Listing
Airfare: Only coach class service public air carrier transportation is allowed. Reservations should be made reasonably in advance to obtain the most economical airfare.
Mid-size rental car (including gasoline); parking and tolls; mileage at current IRS rate.

Expense Listing
Lodging: Daily rate is $150.00 maximum.
Per Diem (lodging not included): Travel rate for meals and incidental expenses is $50.00 – no alcohol.

C4 - Economic Price Adjustment

Consultant may request an adjustment to the base labor rates in this Agreement twelve months after the effective date of the (a) Agreement, or (b) Notice To Proceed (NTP), whichever occurs later. Any such request must include supporting data, in a form satisfactory to City, subject to audit. Any adjustments to labor rates shall not exceed the percent change in the Bureau of Labor Statistics (BLS) Consumer Price Index (CPI) for the previous twelve months, and any other ceiling caps stated elsewhere in this Agreement.

Should a request for adjustment be made after a twelve month period, any subsequent request will not be considered prior to the end of the next twelve months. Under no circumstances will an adjustment to rates be made retroactively.

The formula for calculating the CPI adjusted allowable rate is:

$$\left[1+\left(\frac{\text{Current CPI - Previous CPI}}{\text{Previous CPI}}\right)\right] \text{x Previous Rate} = \text{Current Rate}$$

Definitions

CPI: The All Urban Consumers (CPI-U), Los Angeles-Riverside-Orange, CO, CA, All Items, shall be used.

Current CPI: The CPI-U as of the twelfth month after the effective date of this Agreement, or the NTP, whichever occurs later. When a request for rate adjustment is made after a twelve month period, the CPI-U as of the month of the request will be used. For subsequent price adjustments, the CPI-U as of the twelfth month after the prior adjustment, shall be used.

Previous CPI: The CPI-U as of the effective date of this Agreement, or the NTP, whichever occurs later. For subsequent price adjustments, the prior Current CPI, shall be used.

Previous Rate: The Agreement labor rate in effect during the previous twelve months.

Current Rate: The adjusted Agreement labor rate effective for the next twelve months.

EXHIBIT D

TIME SCHEDULE

A. Consultant shall complete the draft report no later than March 31, 2005. The final deliverables shall be delivered no later than May 31, 2005 in order to implement the new Recycled Water Rate Structure in July 2005. New rates will be implemented at City's sole discretion.

EXHIBIT E

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP) CONSULTANT REQUIREMENTS

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I. **City's Equal Opportunity Commitment.** The City of San Diego (City) is strongly committed to equal opportunity for employees and subconsultants of professional service consultants doing business with the City. The City encourages its consultants to share this commitment. Prime consultants are encouraged to take positive steps to diversify and expand their subconsultant solicitation base and to offer consulting opportunities to all eligible subconsultants.

II. **Nondiscrimination in Contracting Ordinance.** All consultants and professional service providers doing business with the City, and their subconsultants, must comply with requirements of the City's *Nondiscrimination in Contracting Ordinance,* San Diego Municipal Code Sections 22.3501 through 22.3517.

A. Proposal Documents to include Disclosure of Discrimination Complaints. As part of its bid or proposal, Proposer shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against Proposer in a legal or administrative proceeding alleging that Proposer discriminated against its employees, subconsultants, vendors, or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

B. Contract Language. The following language shall be included in contracts for City projects between the consultant and any subconsultants, vendors, and suppliers:

> Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Consultant shall provide equal opportunity for

subconsultants to participate in subconsulting opportunities. Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.

C. Compliance Investigations. Upon the City's request, Consultant agrees to provide to the City, within sixty calendar days, a truthful and complete list of the names of all Subconsultants, vendors, and suppliers that Consultant has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Consultant for each subcontract or supply contract. Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's *Nondiscrimination in Contracting Ordinance,* Municipal Code Sections 22.3501 through 22.3517. Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Consultant up to and including contract termination, debarment and other sanctions for violation of the provisions of the *Nondiscrimination in Contracting Ordinance.* Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the *Nondiscrimination in Contracting Ordinance* apply only to violations of the *Ordinance.*

III. **Equal Employment Opportunity.** Consultants shall comply with requirements of San Diego Ordinance No. 18173, Section 22.2701 through 22.2707, Equal Employment Opportunity Outreach Program. Consultants shall submit a *Work Force Report* or an *Equal Employment Opportunity* (EEO) *Plan* to the Program Manager of the City of San Diego Equal Opportunity Contracting Program (EOCP) for approval.

A. Work Force Report. If a *Work Force Report* (Attachment AA) is submitted, and an EOCP staff Work Force Analysis determines there are under representation when compared to County Labor Force Availability data, Consultant will be required to submit an *Equal Employment Opportunity Plan.*

B. Equal Employment Opportunity Plan. If an *Equal Employment Opportunity Plan* is submitted, it must include at least the following assurances that:

1. The Consultant will maintain a working environment free of discrimination, harassment, intimidation and coercion at all sites and in all facilities at which the Consultant's employees are assigned to work;

2. A responsible official is designated to monitor all employment related activity to ensure the Consultant's EEO Policy is being carried out and to submit reports relating to EEO provisions;

3. Consultant disseminates and reviews its EEO Policy with all employees at least once a year, posts the policy statement and EEO posters on all company bulletin boards and job sites, and documents

every dissemination review and posting with a written record to identify the time, place, employees present, subject matter, and disposition of meetings;

4. The Consultant reviews, at least annually, all supervisor's adherence to and performance under the EEO Policy and maintains written documentation of these reviews;

5. The Consultant discusses its EEO Policy Statement with subconsultants with whom it anticipates doing business, includes the EEO Policy Statement in its subcontracts, and provides such documentation to the City upon request;

6. The Consultant documents and maintains a record of all bid solicitations and outreach efforts to and from subconsultants, consultant associations and other business associations;

7. The Consultant disseminates its EEO Policy externally through various media, including the media of people of color and women, in advertisements to recruit, maintains files documenting these efforts, and provides copies of these advertisements to the City upon request;

8. The Consultant disseminates its EEO Policy to union and community organizations;

9. The Consultant provides immediate written notification to the City when any union referral process has impeded the Consultant's efforts to maintain its EEO Policy;

10. The Consultant maintains a current list of recruitment sources, including those outreaching to people of color and women, and provides written notification of employment opportunities to these recruitment sources with a record of the organizations' responses;

11. The Consultant maintains a current file of names, addresses and phone numbers of each walk-in applicant, including people of color and women, and referrals from unions, recruitment sources, or community organizations with a description of the employment action taken;

12. The Consultant encourages all present employees, including people of color and women employees, to recruit others;

13. The Consultant maintains all employment selection process information with records of all tests and other selection criteria;

14. The Consultant develops and maintains documentation for on-the-job training opportunities and/or participates in training programs for all of its employees, including people of color and women, and establishes apprenticeship, trainee, and upgrade programs relevant to the Consultant's employment needs;

15. The Consultant conducts, at least annually, an inventory and evaluation of all employees for promotional opportunities and encourages all employees to seek and prepare appropriately for such opportunities;

16. The Consultant ensures the company's working environment and activities are non-segregated except for providing separate or single-user toilets and necessary changing facilities to assure privacy between the sexes;

17. The Consultant establishes and documents policies and procedures to ensure job classifications, work assignments, promotional tests, recruitment and other personnel practices do not have a discriminatory effect; and

18. The Consultant is encouraged to participate in voluntary associations, which assist in fulfilling one or more of its non-discrimination obligations. The efforts of a consultant association, consultant/community professional association, foundation or other similar group of which the Consultant is a member will be considered as being part of fulfilling these obligations, provided the Consultant actively participates.

IV. **Equal Opportunity Contracting.** Prime consultants are encouraged to take positive steps to diversify and expand their subconsultant solicitation base and to offer contracting opportunities to all eligible subconsultants. To support its Equal Opportunity Contracting commitment, the City has established a voluntary *subconsultant participation level.*

A. Subconsultant Participation Level

1. Projects valued at $25,000 or more have a voluntary Subconsultant Participation Level goal of 15%. Goals are achieved by contracting with any combination of Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE) or Other Business Enterprise (OBE) level.

2. While attainment of the 15% Subconsultant Participation Level goal is strictly voluntary, the City encourages diversity in your outreach and selection efforts. Historical data indicates that of the overall 15% goal, 25% to 30% Disadvantaged Business Enterprise (DBE) and 1% to 3% Disabled Veteran Business Enterprise (DVBE) participation is attainable. The remaining percentages may be allocated to Other Business Enterprises (OBE). Participation levels may be used as a tiebreaker in cases of an overall tie between two or more firms.

B. Contract Activity Reports. To permit monitoring of the successful Consultant's commitment to achieving compliance, *Contract Activity Reports*

(Attachment BB) reflecting work performed by subconsultants shall be submitted quarterly for any work covered under an executed contract.

V. **Demonstrated Commitment to Equal Opportunity.** The City seeks to foster a business climate of inclusion and to eliminate barriers to inclusion.

A. Proposers are required to submit the following information with their proposals:

1. Outreach Efforts. Description of Proposer's outreach efforts undertaken on this project to make subconsulting opportunities available to all interested and qualified firms.

2. Past Participation Levels. Listing of Proposer's subconsultant participation levels achieved on all private and public projects within the past three years. Include name of project, type of project, value of project, subconsultant firm's name, percentage of subconsultant firm's participation, and identification of subconsultant firm's ownership as a certified Small Business, Disadvantaged Business Enterprise, Disabled Veteran Business Enterprise, or Other Business Enterprise.

3. Equal Opportunity Employment. Listing of Proposer's strategies to recruit, hire, train and promote a diverse workforce. These efforts will be considered in conjunction with Proposer's *Workforce Report* as compared to the County's Labor Force Availability.

4. Community Activities. Listing of Proposer's current community activities such as membership and participation in local organizations, associations, scholarship programs, mentoring, apprenticeships, internships, community projects, charitable contributions and similar endeavors.

B. Consultant selection panels will consider and evaluate the Proposer's demonstrated commitment to equal opportunity including the following factors:

1. Outreach Efforts. Proposer's outreach efforts undertaken and willingness to make meaningful subconsulting opportunities available to all interested and qualified firms on this project.

2. Past Participation Levels. Proposer's subconsultant participation levels achieved on all private and public projects within the past three years.

3. Equal Opportunity Employment. Proposer's use of productive strategies to successfully attain a diverse workforce as compared to the County's Labor Force Availability.

4. Community Activities. Proposer's current community activities.

VI. **List of Subconsultants.** Consultants are required to submit a *Subconsultant List* with their proposal.

A. Subconsultants List. The *Subconsultant List* (Attachment CC) shall indicate the Name and Address, Scope of Work, Percent of Total Proposed Contract Amount, Dollar Amount of Proposed Subcontract, Certification Status and Where Certified for each proposed subconsultant.

1. Subconsultants must be named on the *Subconsultants List* if they receive more than one-half of one percent (0.5%) of the Prime Consultant's fee.

B. Commitment Letters. Proposer shall also submit subconsultant *Commitment Letters* on subconsultant's letterhead, no more than one page each, from all proposed subconsultants to acknowledge their commitment to the team, scope of work, and percent of participation in the project.

VII. **Definitions.** Certified **"Minority Business Enterprise" (MBE)** means a business which is at least fifty-one percent (51%) owned by African Americans, American Indians, Asians, Filipinos, and/or Latinos and whose management and daily operation is controlled by one or more members of the identified ethnic groups. In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more members of the identified ethnic groups.

Certified **"Women Business Enterprise" (WBE)** means a business which is at least fifty-one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more women.

Certified **"Disadvantaged Business Enterprise" (DBE)** means a business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, socially and economically disadvantaged individuals.

Certified **"Disabled Veteran Business Enterprise" (DVBE)** means a business which is at least fifty-one percent (51%) owned by one or more veterans with a service related disability and whose management and daily operation is controlled by the qualifying party(ies).

"Other Business Enterprise" (OBE) means any business which does not otherwise qualify as Minority, Woman, Disadvantaged or Disabled Veteran Business Enterprise.

VIII. **Certification.**

A. The City of San Diego is a signatory to a Memorandum of Understanding (MOU) with the California Department of Transportation

(CALTRANS), and therefore has adopted a policy regarding certification of MBE/WBE/DBE/DVBE firms. As a result of the MOU, an MBE, WBE or DBE is certified as such by any of the following methods:

1. Current certification by the City of San Diego as MBE, WBE, or DBE;

2. Current certification by the State of California Department of Transportation (CALTRANS) as MBE, WBE or DBE;

3. Current MBE, WBE or DBE certification from any participating agency in the statewide certified pool of firms known as CALCERT.

B. DVBE certification is received from the State of California's Department of General Services, Office of Small and Minority Business (916) 322-5060.

IX. List of Attachments.

AA - *Work Force Report*
BB - *Contract Activity Report*
CC - *Subconsultants List*

ATTACHMENT B

THE CITY OF SAN DIEGO
EQUAL OPPORTUNITY CONTRACTING
1010 SECOND AVENUE, SUITE 500
SAN DIEGO, CA 92101
PHONE (619) 533-4464 • FAX (619) 533-4474

WORK FORCE REPORT

The objective of the Equal Employment Opportunity is to ensure that contractors doing business with the City, or receiving funds from the City, will not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship.

NO OTHER FORMS WILL BE ACCEPTED

CONTRACTOR IDENTIFICATION

Type of Contractor: ☐ Construction ☐ Vendor/Supplier ☐ Financial Institution ☐ Lessee/Lessor ☑ Consultant ☐ Grant Recipient ☐ Insurance Company ☐ Other

Name of Company: Raftelis Financial Consultants, Inc.

ADA/DBA:

Address (Corporate Headquarters, where applicable): 201 S. Lake Blvd. Suite 803

City Pasadena County _____ State CA Zip 91101

Telephone Number: (626) 583 - 1894 Fax Number: (626) 583 - 1411

Name of Company CEO: George Raftelis

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address:

City _____ County _____ State _____ Zip _____

Telephone Number: ( ) _____ - _____ Fax Number: ( ) _____ - _____

Type of Business: Consulting Type of License: _____

The Company has appointed: Diane Adams

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 511 East Blvd. Charlotte, NC 28203

Telephone Number: (704) 373 - 1199 Fax Number: (704) 373 - 1113

For Firm's: ☐ San Diego Work Force and/or ☐ Managing Office Work Force

I, The undersigned representative of Raftelis Financial Consultants, Inc.
(Firm Name)

Mecklenburg (County) NC. (State)

hereby certify that information provided herein is true and correct. This document was executed on this day of Aug, 2004

Diane Adams
(Authorized Signature)

Diane Adams
(Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: Raftelis Financial Consultants, Inc DATE: 9/13/04

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

(1) African-American, Black
(2) Latino, Hispanic, Mexican-American, Puerto Rican
(3) Asian, Pacific Islander
(4) American Indian, Eskimo
(5) Filipino
(6) Caucasian
(7) Other ethnicity; not falling into other groups

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian		(4) American Indian		(5) Filipino		(6) Caucasian		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Executive, Administrative, Managerial		1									5	2	1	
Professional Specialty											7	2		
Engineers/Architects														
Technicians and Related Support														
Sales														
Administrative Support/Clerical		1										1		
Services														
Precision Production, Craft and Repair														
Machine Operators, Assemblers, Inspectors														
Transportation and Material Moving														
Handlers, Equipment Cleaners, Helpers and Non-construction Laborers*												2		
TOTALS EACH COLUMN		2									12	7	1	

*Construction laborers and other field employees are not to be included on this page

GRAND TOTAL ALL EMPLOYEES	22

INDICATE BY GENDER AND ETHNICITY THE NUMBER OF ABOVE EMPLOYEES WHO ARE DISABLED:

DISABLED														

NON-PROFIT ORGANIZATIONS ONLY:

BOARD OF DIRECTORS														
VOLUNTEERS														
ARTISTS														

SUBCONSULTANTS LIST

INFORMATION REGARDING SUBCONSULTANTS PARTICIPATION:

1. Subconsultant's List shall include name and complete address of all Subconsultants who will receive more than one half of one percent (0.5%) of the Prime Consultant's fee.

2. Proposer shall also submit subconsultant commitment letters on subconsultant's letterhead, no more than one page each, from subconsultants listed below to acknowledge their commitment to the team, scope of work, and percent of participation in the project.

3. Subconsultants shall be used for scope of work listed. No changes to this Subconsultants List will be allowed without prior written City approval.

NAME AND ADDRESS SUBCONSULTANTS	SCOPE OF WORK	PERCENT OF CONTRACT	DOLLAR AMOUNT OF CONTRACT	*MBE/WBE/ DBE/DVBE/ OBE	**WHERE CERTIFIED
NONE					

*For information only. As appropriate, Proposer shall identify Subconsultants as:

Certified Minority Business Enterprise	MBE
Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE
Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE

***For information only.* As appropriate, Proposer shall indicate if Subconsultant is certified by:

City of San Diego	CITY
State of California Department of Transportation	CALTRANS

CONTRACT ACTIVITY REPORT

Consultants are required by contract to report subcontractor activity in this format. Reports shall be submitted via the Project Manager to the *Equal Opportunity Contracting Program* (EOCP) no later than thirty (30) days after the close of each quarter.

PROJECT:_____ PRIME CONTRACTOR:_____

Contract Amount:_____ **Invoice Period:**_____ **Date:**_____

Include Additional Services Not-To-Exceed Amount

Subcontractor	Indicate MBE, WBE, DBE, DVBE or OBE	Current Period		Paid to Date		Original Commitment	
		Dollar Amount	% of Contract	Dollar Amount	% of Contract	Dollar Amount	% of Contract
Prime Contractor Total:							
Contract Total:							

Completed by_____

EXHIBIT F

DRUG-FREE WORKPLACE POLICY

A. General

All City projects are subject to City of San Diego Resolution No. R-277952 adopted on May 20, 1991. All bidders should be aware of the provisions of Council Policy 100-17 which was established by the above numbered resolution. The policy applies equally to the contractor and all subcontractors. The elements of the policy are outlined below.

B. Definitions

1. "Drug-free workplace" means a site for the performance of work done in connection with a contract let by City of San Diego for the construction, maintenance, or repair of any facility or public work by an entity at which employees of the entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this section.

2. "Employee" means the employee of a contractor directly engaged in the performance of work pursuant to a contract as described in Section C.

3. "Controlled substance" means a controlled substance in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. Sec. 812).

4. "Contractor" means the department, division, or other unit of a person or organization responsible to the contractor for the performance of a portion of the work under the contract.

C. City Contractor Requirements

1. Every person or organization awarded a contract or grant by the City of San Diego for the provision of services shall certify to the City, by submitting the attached **Contractor Certification for Drug-Free Workplace** signed by an individual or individuals authorized to execute legal documentation on behalf of the Contractor, that it will provide a drug-free workplace by doing all of the following:

   a. Publishing a statement of notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's organization's workplace and specifying the actions that will be taken against employees for violations of the prohibition.

b. Establishing a drug-free awareness program to inform employees about all the following:

(1) The dangers of drug abuse in the workplace.

(2) The person's or organization's policy of maintaining a drug-free workplace.

(3) Any available drug counseling, rehabilitation, and employee assistance programs.

(4) The penalties that may be imposed upon employees for drug abuse violations.

c. Posting the statement required by subdivision (a) in a prominent place at contractors main office. For projects large enough to necessitate a construction trailer at the job site, the required signage would also be posted at the job site.

2. Contractors shall include in each subcontract agreement language which indicates the subcontractor's agreement to abide by the provisions of subdivisions (a.) through (c.) inclusive of Section C1. Contractors and subcontractors shall be individually responsible for their own drug-free workplace programs.

Note: The requirements of a drug-free awareness program can be satisfied by periodic tailgate sessions covering the various aspects of drug-abuse education. Although an in-house employee assistance program is not required, contractors should be able to provide a listing of drug rehabilitation and counseling programs available in the community at large.

CONTRACTOR CERTIFICATION

FOR

DRUG FREE WORKPLACE

PROJECT TITLE: Recycled Water Pricing Structure Study

I hereby certify that I am familiar with requirements of San Diego City Council Policy No. 100-17 regarding Drug Free Workplace as outlined in the Request For Proposals, and that

Raftelis Financial Consultants, Inc.

(Contractors Name)

has in place a drug-free workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the Subcontractor's agreement to abide by the provisions of subdivisions a) through c) of the policy as outlined.

Signed _____

Printed Name Diane R. Adams

Title Business Manager

Date 8/26/04

THIRD AMENDMENT TO AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND RAFTELIS FINANCIAL CONSULTING, INC. FOR CONSULTING SERVICES

This Third Amendment to the Agreement between the City of San Diego and Raftelis Financial Consulting, Inc. for consulting services [Third Amendment] is made and entered into by and between the City of San Diego, a municipal corporation [City], and Raftelis Financial Consulting, Inc. [Consultant], with reference as following.

RECITIALS

A. WHEREAS, on December 10, 2004, City and Consultant entered into an Agreement for Consulting Services [Agreement], the original of which is on file in the office of the City Clerk as Document No. C-13130;

B. WHEREAS, on February 15, 2006, City and Consultant entered into a First Amendment to the Agreement [First Amendment], the original of which is on file in the office of the City Clerk as Document No. C-13719;

C. WHEREAS, on January 29, 2008, City and Consultant entered into a Second Amendment to the Agreement [Second Amendment}, the original of which is on file in the office of the City Clerk as Resolution No. 303321;

D. WHEREAS, City and Consultant mutually agree to extend the period of performance to December 31, 2010 for the completion of the Scope of Service;

NOW, THEREFORE, in consideration of the Recitals stated above, and incorporated herein by this reference and the mutual obligation of the Parties expressed herein, City and Consultant agree as follows:

1. That all terms and conditions of the Agreement referenced above, as modified by the First Amendment and Second Amendment, copies of which are on file in the office of the City Clerk, remain in full force and effect except as expressly and specifically amended herein.

2. That Section 2.1, Term of Agreement, be deleted in its entirety and replaced with the following:

   2.1 Term of Agreement. This Agreement shall be effective on the date it is executed by the last Party to sign the Agreement, and approved by the City Attorney in accordance with San Diego Charter Section 40. Unless otherwise terminated, it shall be effective until completion of the Scope of Services or

December 31, 2010, whichever is the earliest but not to exceed five years unless approved by City ordinance.

3. That Section 3.1.1, Contract Amount, be deleted in its entirety and replaced with the following:

3.1.1 Contract Amount. The City shall compensate the Consultant on an hourly basis, for all Professional Services related to performance under this Agreement, in an amount not to exceed $400,000 (Contract Amount).

THIS Amendment No. 3 to the AGREEMENT shall affect only the page(s), section(s) and exhibits, and/or terms and conditions referred to herein. All other terms and conditions of the AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Mayor or his designee, pursuant to Ordinance No. O-_____ authorizing such execution, and by the Company through its duly authorized officer.

RAFTELIS FINANCIAL CONSULTING, INC.	CITY OF SAN DIEGO
By: Sudhir Pardiwala	By:_____
Name: SUDHIR PARDIWALA	Name:_____
Date: 12-28-09	Date:_____

I HEREBY APPROVE the form and legality of the forgoing amendment this _____ day of _____, 2010.

JAN I. GOLDSMITH, City Attorney

By:_____
Deputy City Attorney